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## ENROLLED BILL ANALYSIS

**BILL NUMBER:** Senate Bill 499 (H-5)

**TOPIC:** Rail-trail Easements for Telecommunications Facilities

**SPONSOR:** Sen. Tom Casperson

**CO-SPONSORS:** Walker, Colbeck, Caswell, Green

**COMMITTEE:** Senate Energy & Technology; House Energy & Technology

**Analysis Completed:** May 11, 2012

**ADMINISTRATION POSITION** Neutral

### PROBLEM/BACKGROUND

In rural areas of the state, ensuring that there is adequate access to broadband is critical for economic development and education purposes. Telecommunications providers have attempted to work with the Department of Natural Resources (DNR) to gain access to easements over state-owned or operated rail-trails in order to deploy facilities, but in some cases have found the fees to be cost prohibitive and inconsistent across the state.

### DESCRIPTION OF BILL

Senate Bill 499 requires that if the state owns or has long-term control of a rail-trail, the DNR shall, upon application of a telecommunications provider and payment of not more than \$500 in application fees, authorize the installation of telecommunication facilities on that land (unless the installation is inconsistent with or prohibited by the lease, easement, or other arrangement). Authorization is required to be granted within 45 days, and certain conditions must be met, including underground installation of facilities or attachment to existing aboveground structures, and a requirement that land must be reasonably restored to its condition prior to installation or repair of facilities. In addition to the application fee, a telecommunications provider would be responsible for a one-time use fee of 5 cents per linear foot occupied by the facilities. This use fee would no longer be applicable 6 years after SB 499 takes effect.

Funds collected by DNR would be credited as follows:

- For land purchased with money from the Michigan Natural Resources Trust Fund (MNRTF) on which telecommunications facilities are installed, use fees would go into the MNRTF.
- All other use fees and all application fees would go into the Michigan Trailways Fund.

Upon appropriation, Michigan Trailways Fund dollars collected under this bill would have to be expended as follows:

- Money collected from application fees would go to the DNR to cover administrative costs.
- In each county where use funds are collected for rail-trails used for motorized use, DNR would have to expend the money for grants to organizations operating in that county that are involved with the motorized use of rail-trails (if such organizations exist). These dollars would have to go towards development and maintenance of rail-trails in that county used for motorized recreational purposes.

LARA is an equal opportunity employer/program.  
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

- In each county where use funds are collected but not expended as described above, DNR would have to expend the money for grants to local governments or other organizations in that county that are involved in the use of rail-trails. These dollars would have to go towards development and maintenance of rail-trails within the county for both motorized and non-motorized uses.

The provisions of this bill would not affect the rights and duties set forth in any arrangements or agreements between a provider and the DNR entered into prior to the bill taking effect, and would not create a right for a provider or the DNR to terminate a preexisting arrangement or agreement.

## **SUMMARY OF ARGUMENTS**

### ***Pro***

This bill provides consistency in costs for use of rail-trail easements for telecommunications facilities deployment throughout the state, and should help to provide another tool to incent broadband deployment in rural areas, which is a priority of Governor Snyder. It also provides a funding source for additional trail maintenance or development.

### ***Con***

The Department of Natural Resources is concerned that the fees in the bill will not adequately compensate them for their costs (including a lack of fees for access to easements for upgrades/repairs to facilities), and do not represent fair market value of this state-owned or controlled property.

## **FISCAL/ECONOMIC IMPACT**

**Are there revenue or budgetary implications in the bill to the –**

- (a) **Department:** There are no budgetary implications for LARA.
- (b) **State:** DNR will now have guidelines for a statewide fee structure for rail-trail easement use by telecommunications facilities – \$500 initial application fee and one-time charge of 5 cents per linear foot.
- (c) **Local Government:** For new installations of telecommunications facilities using rail-trail easements, the county or counties or other local governments within the county or counties in which the facilities are deployed may be eligible for a share of funding for maintenance or development of multiuse trails.

## **OTHER STATE DEPARTMENTS**

As noted above, DNR has oversight of rail-trails and would administer this program.

## **ANY OTHER PERTINENT INFORMATION**

n/a

## **ADMINISTRATIVE RULES IMPACT**

Senate Bill 499 will have no impact on administrative rules.